

Remarks

Claims 11 and 13 through 33 are pending in the application. In a final Office Action mailed on June 15, 2006, claims 11 and 13 through 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,161,710 to Dieringer in view of U.S. Patent No. 6,209,736 to Chen. Applicants filed a Pre-Appeal Brief Request for Review on October 16, 2006. A conference was held, and a panel of three examiners withdrew the rejection and reopened prosecution. In the most recent Office Action, mailed March 7, 2007 (Office Action), claims 11 and 13 through 33 were again rejected under 35 U.S.C. §103(a) as being unpatentable, this time over Chen in view of Dieringer. Applicants respectfully submit that reordering the references, with Chen as the primary reference rather than Dieringer, does not overcome the deficiencies of the rejection.

Chen and Dieringer, either individually or in combination, fail to render independent claim 11 obvious. The combination of Chen and Dieringer fails to disclose or suggest features of Claim 11. Claim 11 recites a bottle having a vent disposed remote from a nipple, the nipple being non-vented, and having a minimum wall thickness of greater than about 0.05 inches. The Office Action concedes that Chen does not disclose the nipple wall thickness as recited in claim 11, but argues that Dieringer does disclose the claimed wall thickness. However, combining the bottle disclosed in Chen with the nipple apparatus disclosed in Dieringer would not produce the invention of claim 11, since the nipple apparatus of Dieringer is clearly vented. See col. 6, lines 30-37.

Further, Dieringer teaches away from the combination proposed by the Office Action. The Office Action argues that it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Dieringer with Chen to "provide a natural nipple baby feeding apparatus that eases the transition to and from bottle feeding and natural breast feeding." This position is untenable, as Dieringer alone accomplishes the stated objective. Consequently, a person having ordinary skill in the art would not have any reason to combine Chen and Dieringer as

suggested by the Office Action. In fact, Dieringer teaches away from such a combination. A reference must be considered in its entirety, including portions that would lead away from the claimed invention. MPEP 2141.02. Dieringer discloses a nipple apparatus having an inner membrane with an air vent that allows air to flow into an interior of a bottle when fluid is withdrawn from the nipple. See col. 6, lines 30-37. Chen discloses a feeding bottle having a hard ferrule and a ventilative gasket at a bottom end of the bottle, opposite the end where a nipple is attached. See *e.g.*, Fig. 3. The ventilative gasket has a vent for balancing the internal and external air pressure of the bottle. See col. 2, lines 50-62. Because the air vent of Dieringer and the ventilative gasket of Chen perform similar functions, a person of ordinary skill in the art would have no reason to combine the two references. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. MPEP 2143.01. Because the combination of Dieringer with Chen would produce greater complexity without any added functionality, a person having ordinary skill in the art would have no reason to combine the two references. Claim 11 is therefore patentable over Chen and Dieringer.

Claims 13 through 23 depend from independent claim 11. For at least the reasons given above regarding claim 11, claims 13 through 23 are patentable over Chen and Dieringer. Claims 13 through 23 also contain additional elements not recited in independent claim 11; the Office has failed to indicate where these additional elements are disclosed or suggested by either Chen or Dieringer. Thus, a *prima facie* case of obviousness regarding claims 13 through 23 has not been established.

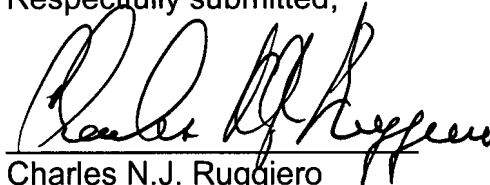
The Office has also failed to establish a *prima facie* case of obviousness in regard to independent claim 24. To establish a *prima facie* case, the combined references must disclose or suggest each element of the claim. The Office Action indicates that claim 24 is rejected as being unpatentable over Chen in view of Dieringer, supposedly because Chen teaches “a bottom cap (4) connected to the

second end of [a] bottle.” However, claim 24 recites a hood, the hood being selectively engageable with both a first end of a bottle and a second end of a bottle. Chen discloses a bottom closure for a bottle, the bottom closure being attached to the bottle by threads. See Col. 2 lines 31-55. The bottom closure is configured to fit on only one end of the bottle. Dieringer discloses a cap with internal threads that matingly engage external threads on a collar to secure the cap in place. See Col. 4, lines 51-53. However, the cap disclosed in Dieringer is not engageable with both ends of a bottle. Neither Chen nor Dieringer discloses or suggests a hood that is selectively engageable with a first and a second end of a bottle. Claim 24 is therefore patentable over the cited combination of references.

Claims 25 through 33 depend from independent claim 24. For at least the reasons given above regarding claim 24, the rejection of claims 25 through 33 is also improper. Additionally, claims 25 through 33 contain additional elements not recited in independent claim 24; the Office has failed to indicate where these additional elements are disclosed by either Dieringer or Chen.

In view of the above, Applicants respectfully submit that all claims presented in this application are patentably distinguishable over the cited references and combination of references. Accordingly, Applicants respectfully request favorable consideration and that this application be passed to allowance.

Respectfully submitted,



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